

**REMARKS**

Claims 1-5 and 7-12 are pending in the application. Claims 6 and 13 were previously canceled.

Claim 1 is amended to recite “A high performance pneumatic tire comprising a tread made from a rubber composition comprising (1) a rubber component comprising a styrene-butadiene copolymer rubber having a content of vinyl bond of not less than 30% and a bound styrene content of more than 30 mass% but not more than 60 mass%...”. No new matter is added.

Entry of the Amendment along with reconsideration and review of the claims on the merits are respectfully requested.

***Response to Claim Rejections - 35 U.S.C. § 112 and §101***

A. The Examiner states that Claims 1-5 and 7-12 provide for the use of a rubber composition in forming a tire, but the Examiner asserts that the claim does not set forth any steps involved in the method/process, such that it is unclear what method/process Applicants are intending to encompass.

B. Claims 1-5 and 7-12 are also rejected under 35 U.S.C. §101 assertedly because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim.

Applicants respond as follows.

Independent Claim 1 clearly recites a product, and not a method/process. As a product claim is not required to set forth any process/method steps, the Examiner's position is improper. However, in order to advance prosecution, Applicants amend Claim 1 for clarification from "a tread formed by using a rubber composition" by replacing the phrase "formed by using" with the phrase "formed with".

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. §112 and §101.

***Response to Claim Rejection - 35 U.S.C. § 102***

Claims 1-3, 8, 9, 10, and 12 are rejected under 35 U.S.C. §102(a) as assertedly being anticipated by Araki (JP 2002-69236) for the same reasons as set forth in the previous Office Action.

Further, in response to Applicants' arguments, the Examiner states that Araki also discloses use of polybutadiene rubber for making retreaded tire in paragraph [0017], thereby maintaining the rejection.

Applicants respond as follows.

Applicants amend Claim 1 to recite styrene-butadiene rubber (SBR) by removing reference to polybutadiene rubber (BR) and the Markush grouping language. Applicants' Examples 1-14 in Table 1 and Examples 15-17 in Table 2 display rubber compositions comprising SBR, but none of the examples comprise BR.

The present invention is concerned with a high performance pneumatic tire improving the resistance to thermal fatigue while maintaining the high gripping property. In the present invention, the bound styrene content is more than 30% by mass for improving the gripping property and the content of vinyl bond is required to be not less than 30% for easily and surely conducting the milling as described in paragraph [0020].

On the other hand, Araki (JP 2002-069236) discloses a pneumatic tire using a rubber composition suitable as a cushion rubber or the like for joining a retreading rubber to a base tire required in the production of a retreading tire of TBR (truck and bus). Araki does not disclose the content of vinyl bond and the bound styrene content of SBR and the compounding amount thereof at all. Thus, the present invention is entirely different from Araki and can not easily be conceived from Araki.

As Araki fails to disclose SBR having the specific content of vinyl bond and amount of bound styrene content as claimed, the present claims are patentable on at least this basis.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(a).

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.116  
U.S. Appln. No.: 10/771,396

Atty. Docket No.: Q79731

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

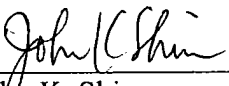
Respectfully submitted,

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